

LFC Requester:

Kelly Klundt

**AGENCY BILL ANALYSIS
2016 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment**
Correction **Substitute**

Date 1/15/16

Bill No: HB 29

Sponsor: Nate Gentry, Carl Trujillo

Agency Code: 305

Short Allow Local Government

Person Writing Peggy Jeffers

Title: Curfew Ordinances

Phone: 827-6024

Email pjeffers@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE**BILL SUMMARY**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

Synopsis:

HB 29 would enact a new section of the Children's Code to allow counties and municipalities (any incorporated cities, towns, or villages) to enact curfew ordinances to regulate the actions of children under the age of sixteen between the hours of midnight and 5:00a.m. and during daytime hours on school days. The daytime curfews could require children, subject to the provisions of the Compulsory School Attendance Law, to be present on school premises when the public, private or home school program that the child is attending is in session.

Subsection C of the first section lists exemptions that at a minimum are to be included in such curfew ordinances. These exemptions are for children sixteen years of or older; emancipated minors; children accompanied by a parent, guardian, or custodian; children accompanied by an adult authorized by the parent, guardian, or custodian to have custody of the child; children traveling interstate; children going to or returning home from school-sponsored functions, civic organization-sponsored functions or religious functions; children going to work or returning home from work; children involved in bona fide emergencies; and children enrolled in or receiving instruction in private schools or home school programs that to not require them to be in attendance at a particular time.

Subsection 1(D) provides procedures law enforcement officers or other employees designated by the ordinances to enforce the curfew must follow. Chief among these requirements is that the law enforcement officer of employee promptly attempt to contact the child's parent, guardian, or custodian and then upon contacting that person deliver the child to that person's residence or request that that person come and take custody of the child, unless returning the child to the custody of the parent, guardian, or custodian would endanger the child's health or safety.

If the law enforcement officer or employee is unable to contact the child's parent, guardian, or custodian within six hours, he or she is to follow the procedures for protective custody outlined in the Family in Need of Court-Ordered Services Act (Section 32A-3B-1 et seq., NMSA 1978). No child could be placed in a secured setting pursuant to Section 1 of HB 29, and curfew ordinances adopted pursuant to HB 29 would not be permitted to impose criminal penalties for violations of the curfew.

Section 2 of HB 29 proposes to amend Section 32A-3B-3(A) (4) of the Family in Need of Court-Ordered Services Act in a manner that makes it gender-neutral, substituting “the child’s” for “his.” It adds a new subsection (a)(5) making the fact that a child is in violation of a curfew ordinance and the officer is unable to contact the child’s parent, guardian, or custodian a condition allowing a child to be taken into protective custody without a court order.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

N/A

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

To be consistent with Section 1 of HB 29, Section 2 may need to add language in (A) and (A) (5) allowing a law enforcement officer *or other employee designated by a county or municipality to enforce a curfew ordinance* to place a child in protective custody if the child is in violation of a curfew ordinance and the law enforcement officer or other employee is unable to contact the child’s parent, guardian, or custodian *within a six-hour period*.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A